

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

PLANNED PARENTHOOD OF GREATER
TEXAS FAMILY PLANNING AND
PREVENTATIVE HEALTH SERVICES, INC.,
et al.,

Plaintiffs,

v.

CHARLES SMITH, Executive Commissioner,
Texas Health and Human Services Commission,
et al.,

Defendants.

No. 1:15-CV-01058

ORDER GRANTING PRELIMINARY INJUNCTION

Plaintiffs have applied for an order preliminarily enjoining Defendants, their employees, agents, and successors, and all others acting in concert or participating with them, from terminating the Medicaid provider agreements of Plaintiffs Planned Parenthood of Greater Texas Family Planning and Preventative Health Services, Inc., Planned Parenthood San Antonio, Planned Parenthood Cameron County, Planned Parenthood South Texas Surgical Center, and Planned Parenthood Gulf Coast, Inc. (collectively, “Provider Plaintiffs”). The Court, having considered the pleadings, legal authority, and argument presented in support of Plaintiffs’ Application, as well as the Declarations submitted with that Application, finds and concludes, for the specific reasons required under Federal Rule of Civil Procedure 65(d), that Plaintiffs have shown (1) a likelihood of success on the merits, (2) that they will suffer irreparable harm if an injunction is not issued, and (3) that the balance of harms and the public interest weigh in favor of granting the preliminary injunction.

Specifically, the Court finds that Plaintiffs have established a substantial likelihood of success on the merits of their claim that Defendants' efforts to exclude provider Plaintiffs from the Medicaid program violate the federal law guaranteeing a Medicaid patient's right to receive care from the provider of her choice, 42 U.S.C. § 1396a(a)(23). The term "'qualified' [in § 1396a(a)(23)] means 'to be capable of performing the needed medical services in a professionally competent, safe, legal, and ethical manner.'" *Planned Parenthood of Gulf Coast, Inc. v. Gee*, 837 F.3d 477, 495 (5th Cir. 2016) (quoting *Planned Parenthood of Ind., Inc. v. Comm'r of Ind. State Dep't of Health*, 699 F.3d 962, 978 (7th Cir. 2012)). Provider Plaintiffs continue to provide family planning and other preventive health care services to their Medicaid patients in a professionally competent, safe, legal, and ethical manner. HHSC's termination of their Medicaid agreements "has nothing to do with [their] qualifications." *Id.* at 499.

In addition, Provider Plaintiffs and the Patient Plaintiffs, along with all of Provider Plaintiffs' Medicaid patients, will suffer irreparable injury without a preliminary injunction. Provider Plaintiffs' patients will have their relationship with their Medicaid provider of choice disrupted and face reduced access to critical medical services. Provider Plaintiffs will suffer significant losses that cannot be compensated. Although Provider Plaintiffs and their patients will suffer serious irreparable harm in the absence of an injunction, the Defendants will suffer no injury at all from the preservation of the status quo while the Court considers the request for a permanent injunction, and the public interest moreover weighs in favor of preliminary relief.

IT IS THEREFORE ORDERED that Plaintiffs' Application for Preliminary Injunction is GRANTED, and that Defendants, their employees, agents, and successors, and all others acting

in concert or participating with them, are enjoined from terminating Provider Plaintiffs' Medicaid provider agreements.

Plaintiffs shall not be required to post bond.

IT IS SO ORDERED.

SIGNED this _____ day of _____, 2017.

UNITED STATES DISTRICT JUDGE